

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ERIC PICKERSGILL,

Plaintiff,

vs.

**ROBERT B. NEELY, JR. and INSPIRE
MORE, LLC,**

Defendants.

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Civil Action No. 3:21-cv-00773-X

**DEFENDANTS' FIRST AMENDED ANSWER TO PLAINTIFF'S
ORIGINAL COMPLAINT**

Defendants Robert B. Neely, Jr. and Inspire More, LLC (collectively, "Defendants") file this First Amended Answer to Plaintiff's Original Complaint.

**I.
PARTIES**

1. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 1 of Plaintiff's Original Complaint (the "Complaint") and therefore deny the allegations in Paragraph No. 1.

2. Defendants admit that Robert B. Neely, Jr. is an individual residing in Texas.

3. Defendants admit that Inspire More, LLC is a Texas limited liability company with its principal place of business in Dallas, Texas.

**II.
NATURE OF THE CLAIMS**

4. Defendants admit that Plaintiff appears to allege a claim for copyright infringement. All other allegations in Paragraph No. 4 are denied.

III.
JURISDICTION/VENUE

5. Defendants admit that the Court has subject matter jurisdiction over this action.

6. Defendants admit that they may be found in this District. Defendants deny the remaining allegations in Paragraph No. 6.

IV.
CONDITIONS PRECEDENT

7. Defendants lack sufficient knowledge and information to respond to the allegations in Paragraph No. 7 and therefore deny them.

V.
BACKGROUND FACTS

8. Defendants lack sufficient information and knowledge to respond to the allegations in Paragraph No. 8 and therefore deny them.

9. Defendants admit that InspireMore is an online news outlet. Defendants further aver that the Texas Secretary of State records referenced in Paragraph No. 9 speak for themselves. Defendants deny any remaining allegations in Paragraph No. 9 that are inconsistent with the referenced writings.

10. Defendants lack sufficient knowledge and information to respond to the allegations in Paragraph No. 10.

11. Defendants admit that the InspireMore website was displaying ten of the Removed photographs at the web address described in Paragraph No. 11. The article referenced in Paragraph No. 11 is dated October 13, 2015. Defendants deny the remaining allegations in Paragraph No. 11.

12. Defendants assert that the January 27, 2016 social media post at the web address described in footnote 3 and referenced in Paragraph No. 12 speaks for itself. Defendants deny the remaining allegations in Paragraph No. 12.

13. Defendants lack sufficient knowledge and information to respond to the allegations in Paragraph No. 13 and therefore deny them.

14. Defendants admit that the Photos described in the Complaint have continued to be displayed on the InspireMore website. Defendants deny the other allegations in Paragraph No. 14.

15. On information and belief, Defendants admit the allegations in Paragraph No. 15.

COUNT 1:
COPYRIGHT INFRINGEMENT

16. Defendants incorporate their answers to all preceding paragraphs as if fully set forth herein.

17. Defendants deny the allegations in Paragraph No. 17.

18. Defendants deny the allegations in Paragraph No. 18.

19. Defendants deny the allegations in Paragraph No. 19.

COUNT 2:
CONTRIBUTORY COPYRIGHT INFRINGEMENT

20. Defendants incorporate their answers to all preceding paragraphs as if fully set forth herein.

21. Defendants deny the allegations in Paragraph No. 21.

22. Defendants deny the allegations in Paragraph No. 22.

23. Defendants deny the allegations in Paragraph No. 23.

24. Defendants deny the allegations in Paragraph No. 24.

COUNT 3:
VICARIOUS INFRINGEMENT

25. Defendants incorporate their answers to all preceding paragraphs as if fully set forth herein.

26. Defendants deny the allegations in Paragraph No. 26.

- 27. Defendants deny the allegations in Paragraph No. 27.
- 28. Defendants deny the allegations in Paragraph No. 28.
- 29. Defendants deny the allegations in Paragraph No. 29.
- 30. Defendants deny the allegations in Paragraph No. 30.
- 31. Defendants deny the allegations in Paragraph No. 31.

VI.
JURY DEMAND

32. There are no factual allegations in Paragraph No. 32 directed towards Defendants to which a response is required. To the extent a response is required, Defendants lack sufficient knowledge and information to respond to the allegations in Paragraph No. 32, and therefore deny them.

VII.
PRAYER

33. Defendants deny that Plaintiff is entitled to any relief prayed for in his Complaint. Defendants further aver that Plaintiff has failed to state a claim upon which relief may be granted. Any allegation not specifically admitted herein is denied.

VIII.
AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff's claims are barred in whole or in part by the statute of limitations.

Second Affirmative Defense

Defendants' conduct was not willful.

Third Affirmative Defense

The article and social media posts made the subject of this lawsuit were published in October 2015 and January 2016; therefore, Plaintiff's claims are barred in whole or in part by the

doctrines of waiver, estoppel, and/or laches.

Fourth Affirmative Defense

Plaintiff's claims are barred in whole or in part by fair use.

Fifth Affirmative Defense

Defendants aver that they are immune from liability for copyright infringement, if any, under Title II of the Digital Millennium Copyright Act ("DMCA"), 15 U.S.C. § 512, *et seq.*

Sixth Affirmative Defense

Defendants' conduct was non-infringing as it complied with an express and/or an implied license.

WHEREFORE, Defendants respectfully request that the Court:

1. Deny the relief Plaintiff seeks in his Complaint;
2. Dismiss Plaintiff's Complaint, in its entirety, with prejudice;
3. Award Defendants their costs and attorneys' fees incurred in connection with this action; and
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,
LASATER & MARTIN, P.C.

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